

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DYSON TECHNOLOGY LIMITED,

Plaintiff,

v.

DAVID 7 STORE, et al.,

Defendants.

Case No. 22-cv-05936

**Hon. Steven C. Seeger**

**Magistrate Judge Jeffrey Cummings**

**PLAINTIFF’S MOTION TO MODIFY THE FINAL JUDGMENT ORDER**

Pursuant to the U.S. Court of Appeals for the Seventh Circuit’s opinion and mandate, Plaintiff Dyson Technology Limited (“Dyson” or “Plaintiff”) moves this Honorable Court to modify the Final Judgment Order [51] to include an award of profit damages under 15 U.S.C. § 1117(a) as to certain Defendants. In support of this Motion, Plaintiff submits the following.

**BACKGROUND**

On October 27, 2022, Plaintiff commenced this trademark infringement action against a group of e-commerce stores engaged in the sale of counterfeit Dyson products (collectively, the “Defendants”). [1]. The majority of Defendants failed to answer or otherwise respond to Plaintiff’s Complaint [1]. On March 9, 2023, Plaintiff sought entry of default and default judgment under Fed. R. Civ. P. 55(a) and 55(b)(2) against the remaining Defendants (“Motion for Default”). [34].

As part of its Motion for Default, Plaintiff requested an award of profits against certain Defendants<sup>1</sup> (hereafter, the “Profit Defendants”) under 15 U.S.C. § 1117(a). *See* [35] at pp. 12-

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<sup>1</sup> Profit Defendants are identified on Schedule A [2] as follows: Defendant Nos. 15, 17, 18, 20, 22, 23, 25, 27, 29, 30, 31, 32, 34, 35, 36, 38, 39, 40, 41, 43, 45, 46, 47, 49, 50, 51, 53, 54, 55, 58, 59, 61, 62, 65, 66, 67, 68, 72, 73, 75, 76, 77, 81, 82, 83, 84, 88, 92, 93, 94, 98, 103, 105, 110, 111, 116, 121, 124, and 126.

14. In support of its request, Plaintiff submitted a declaration by Justin R. Gaudio which detailed the infringing product revenue generated by each Defendant, as provided by Amazon.com, Inc. (“Amazon”) and eBay, Inc. (“eBay”). [36] at ¶¶ 4-6.

On August 29, 2023, the Court entered a Final Judgment Order [51] against Defendants. The Court found that Defendants were liable for willful federal trademark infringement and counterfeiting and false designation of origin. [51] at p. 11. The Court further awarded statutory damages under 15 U.S.C. § 1117(c)(2) against certain Defendants<sup>2</sup> (hereafter, the “Statutory Damages Defendants”) in the amount of one thousand dollars (\$1,000) per Defendant. [51] at pp. 11-13, ¶ 1. However, the Court declined Plaintiff’s request for an award against the Profit Defendants because “Plaintiff offered evidence of revenue, not profits. Revenue and profits are not the same thing. The Court declines the invitation to assume that all of the revenue equals profits.” [51] at p. 13, ¶ 2. No monetary judgment was entered against the Profit Defendants.

On September 28, 2023, Plaintiff filed its Notice of Appeal [53] from the Final Judgment Order [51]. On appeal, Plaintiff challenged the Court’s decision declining to enter an award of profits against the Profit Defendants. *Dyson Tech. Ltd. v. David 7 Store*, 132 F.4th 526, 528 (7th Cir. 2025). On March 24, 2025, the Seventh Circuit reversed the Court’s decision and remanded for further proceedings. *Dyson Tech. Ltd.*, 132 F.4th at 529. Specifically, the Seventh Circuit held:

“The statutory scheme devised by Congress supplies the marching orders here: Dyson provided uncontested evidence of revenue, which suffices as profits when assessing Dyson's recovery under the Lanham Act. *See* 15 U.S.C. § 1117(a). On remand, if the district court wishes to award more or less than these profits, it

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<sup>2</sup> Statutory Damages Defendants are identified on Schedule A [2] as follows: Defendant Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 19, 21, 24, 26, 28, 33, 37, 42, 44, 48, 52, 56, 57, 60, 63, 64, 69, 70, 71, 74, 78, 79, 80, 85, 86, 87, 89, 90, 91, 95, 96, 97, 99, 100, 101, 102, 104, 106, 107, 108, 109, 112, 113, 114, 115, 117, 118, 119, 120, 122, 123, 125, 127, 128, 129, 130, 131, 132, and 134.

retains the discretion to do so, as long as it makes a finding based on the facts of the case. *See id.*”

*Id.*

### **ARGUMENT**

In accordance with the Seventh Circuit’s mandate [61], Plaintiff requests that the Final Judgment Order be amended to include an award of profits, pursuant to 15 U.S.C. § 1117(a), against the Profit Defendants. Under the “mandate rule,” when a reviewing court has reversed a final judgment and remanded the case, the district court is required to comply with the express or implied rulings of the appellate court. *See e.g., In re A.F. Moore & Assocs., Inc.*, 974 F.3d 836, 840 (7th Cir. 2020); *Moore v. Anderson*, 222 F.3d 280, 283 (7th Cir. 2000). The court must follow “the spirit as well as the letter of the mandate.” *In re Cont’l Ill. Sec. Litig.*, 985 F.2d 867, 869 (7th Cir. 1993); *See Laitram Corp. v. NEC Corp.*, 115 F.3d 947, 951 (Fed. Cir. 1997) (holding that a “district court’s actions on remand should not be inconsistent with either the letter or the spirit of the mandate.”).

The Seventh Circuit held that “Dyson provided uncontested evidence of revenue, which suffices as profits when assessing Dyson’s recovery under the Lanham Act.” *Dyson Tech. Ltd*, 132 F.4th at 529 “The Act presumes that the infringing defendant's sales (that is, revenue) and profits are the same thing, until the defendant proves otherwise.” *See id.* Specifically, Plaintiff submitted a declaration by Justin R. Gaudio detailing the infringing product revenue generated by each Defendant. *See* [36] at ¶¶ 4-6. Given that Defendants have chosen not to participate in these proceedings, Plaintiff is not required to guess each Defendant’s infringing profit total based on the revenue data provided by Amazon and eBay. *See Dyson Tech. Ltd*, 132 F.4th at 529 (“The district court was incorrect to hold otherwise. A trademark plaintiff need not disentangle

revenue and profits.”). Therefore, Plaintiff should be awarded the full amount of each Profit Defendant’s revenue.

Accordingly, consistent with the Seventh Circuit’s mandate, Plaintiff requests that the Final Judgment Order [51] be amended to include an award of profits under 15 U.S.C. § 1117(a) against the Profit Defendants in the amount of the known infringing produce revenue generated by each Profit Defendant as set forth below<sup>3</sup>:

<b>Def. No.</b>	<b>Defendant</b>	<b>Damages Award</b>
15	A2JHUHHN5A7W2A	\$2,735
17	A2RFVG02LAE3TJ	\$6,296
18	amz.com-	\$2,715
20	Annonn	\$2,978
22	bigpoweui	\$1,846
23	boony	\$3,964
25	COZYRM	\$41,900
27	DaYun	\$6,096
29	Dhkyuk	\$6,472
30	Dokiy	\$23,866
31	4orothy good	\$9,290
32	DVJDVJ	\$3,243
34	dyson-001	\$5,594
35	dyson-brand store	\$15,895
36	Dyson-specialty store	\$1,671
38	ewajgijg777	\$2,430
39	FOQIANG	\$8,783
40	FuYangKanCang	\$2,989
41	guangzhouchanjunmaoyiyouxiangongsi1	\$9,727
43	haokezhijia	\$12,877
45	HHUI US	\$7,078
46	HKYLINC	\$15,909
47	HllgkyUS	\$1,062
49	Huangxue	\$1,155
50	huangyanbeias	\$23,193
51	HZM NDY	\$15,072
53	Jiangquan	\$2,126
54	JING-SHOP	\$6,443

<sup>3</sup> Plaintiff does not seek to disturb the statutory damages award entered against the Statutory Damages Defendants. *See* [51] at p. 11-13, ¶ 1.

55	Jony JJ	\$15,646
58	liheyuan123456	\$1,747
59	Lihuiling	\$8,389
61	LXFZMDFactory Direct	\$4,388
62	Magic Secret Service	\$24,949
65	nanningshijiandianzishangwuyouxiangongsi	\$29,420
66	nanningyangkangdianzishangwuyouxiangongsi	\$5,138
67	PNEGQIN-us	\$24,858
68	Princesseey	\$8,891
72	Sadaaga Store	\$1,796
73	Samexy Store-US	\$8,685
75	SHIRUYI	\$6,996
76	sisalx-store	\$4,334
77	SMART word	\$27,650
81	TIANTONGL	\$62,115
82	Wang Nuo	\$6,108
83	WanPinMaoYi	\$24,765
84	WOO-WIN	\$14,824
88	yuanjishangmaogongsi	\$14,628
92	ZangQiong	\$11,275
93	Zhuhongyu	\$7,303
94	Zipeng	\$1,482
98	chedy904	\$1,640
103	epossa-1	\$1,608
105	goky91	\$2,840
110	junn8577	\$1,640
111	kicyee	\$1,056
116	nana 6036	\$3,073
121	siao-0915	\$6,996
124	swauk-2022	\$21,834
126	tianronghua5	\$2,894

### **CONCLUSION**

For the foregoing reasons, and pursuant to the Seventh Circuit's mandate, Plaintiff requests that Final Judgment Order [51] be amended to include an award of profits against the Profit Defendants in the amounts set forth herein. Plaintiff is concurrently submitting an updated Final Judgment Order in accordance with this Motion.

Dated this 4<sup>th</sup> day of June 2025.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of June 2025, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website, and I will send an e-mail to the e-mail addresses identified in Exhibit A hereto that includes a link to said website.

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